

**§ 97.187 Change in regulatory status.**

(a) *Notification.* If a CAIR NO<sub>x</sub> opt-in unit becomes a CAIR NO<sub>x</sub> unit under § 97.104, then the CAIR designated representative shall notify in writing the permitting authority and the Administrator of such change in the CAIR NO<sub>x</sub> opt-in unit's regulatory status, within 30 days of such change.

(b) *Permitting authority's and Administrator's actions.* (1) If a CAIR NO<sub>x</sub> opt-in unit becomes a CAIR NO<sub>x</sub> unit under § 97.104, the permitting authority will revise the CAIR NO<sub>x</sub> opt-in unit's CAIR opt-in permit to meet the requirements of a CAIR permit under § 97.123, and remove the CAIR opt-in permit provisions, as of the date on which the CAIR NO<sub>x</sub> opt-in unit becomes a CAIR NO<sub>x</sub> unit under § 97.104.

(2)(i) The Administrator will deduct from the compliance account of the source that includes the CAIR NO<sub>x</sub> opt-in unit that becomes a CAIR NO<sub>x</sub> unit under § 97.104, CAIR NO<sub>x</sub> allowances equal in amount to and allocated for the same or a prior control period as:

(A) Any CAIR NO<sub>x</sub> allowances allocated to the CAIR NO<sub>x</sub> opt-in unit under § 97.188 for any control period after the date on which the CAIR NO<sub>x</sub> opt-in unit becomes a CAIR NO<sub>x</sub> unit under § 97.104; and

(B) If the date on which the CAIR NO<sub>x</sub> opt-in unit becomes a CAIR NO<sub>x</sub> unit under § 97.104 is not December 31, the CAIR NO<sub>x</sub> allowances allocated to the CAIR NO<sub>x</sub> opt-in unit under § 97.188 for the control period that includes the date on which the CAIR NO<sub>x</sub> opt-in unit becomes a CAIR NO<sub>x</sub> unit under § 97.104, multiplied by the ratio of the number of days, in the control period, starting with the date on which the CAIR NO<sub>x</sub> opt-in unit becomes a CAIR NO<sub>x</sub> unit under § 97.104 divided by the total number of days in the control period and rounded to the nearest whole allowance as appropriate.

(ii) The CAIR designated representative shall ensure that the compliance account of the source that includes the CAIR NO<sub>x</sub> opt-in unit that becomes a CAIR NO<sub>x</sub> unit under § 97.104 contains the CAIR NO<sub>x</sub> allowances necessary for completion of the deduction under paragraph (b)(2)(i) of this section.

(3)(i) For every control period after the date on which the CAIR NO<sub>x</sub> opt-in

unit becomes a CAIR NO<sub>x</sub> unit under § 97.104, the CAIR NO<sub>x</sub> opt-in unit will be allocated CAIR NO<sub>x</sub> allowances under § 97.142.

(ii) If the date on which the CAIR NO<sub>x</sub> opt-in unit becomes a CAIR NO<sub>x</sub> unit under § 97.104 is not December 31, the following amount of CAIR NO<sub>x</sub> allowances will be allocated to the CAIR NO<sub>x</sub> opt-in unit (as a CAIR NO<sub>x</sub> unit) under § 97.142 for the control period that includes the date on which the CAIR NO<sub>x</sub> opt-in unit becomes a CAIR NO<sub>x</sub> unit under § 97.104:

(A) The amount of CAIR NO<sub>x</sub> allowances otherwise allocated to the CAIR NO<sub>x</sub> opt-in unit (as a CAIR NO<sub>x</sub> unit) under § 97.142 for the control period multiplied by;

(B) The ratio of the number of days, in the control period, starting with the date on which the CAIR NO<sub>x</sub> opt-in unit becomes a CAIR NO<sub>x</sub> unit under § 97.104, divided by the total number of days in the control period; and

(C) Rounded to the nearest whole allowance as appropriate.

[65 FR 2727, Jan. 18, 2000, as amended at 71 FR 74795, Dec. 13, 2006]

**§ 97.188 CAIR NO<sub>x</sub> allowance allocations to CAIR NO<sub>x</sub> opt-in units.**

(a) *Timing requirements.* (1) When the CAIR opt-in permit is issued under § 97.184(e), the permitting authority will allocate CAIR NO<sub>x</sub> allowances to the CAIR NO<sub>x</sub> opt-in unit, and submit to the Administrator the allocation for the control period in which a CAIR NO<sub>x</sub> opt-in unit enters the CAIR NO<sub>x</sub> Annual Trading Program under § 97.184(g), in accordance with paragraph (b) or (c) of this section.

(2) By no later than October 31 of the control period after the control period in which a CAIR NO<sub>x</sub> opt-in unit enters the CAIR NO<sub>x</sub> Annual Trading Program under § 97.184(g) and October 31 of each year thereafter, the permitting authority will allocate CAIR NO<sub>x</sub> allowances to the CAIR NO<sub>x</sub> opt-in unit, and submit to the Administrator the allocation for the control period that includes such submission deadline and in which the unit is a CAIR NO<sub>x</sub> opt-in unit, in accordance with paragraph (b) or (c) of this section.

(b) *Calculation of allocation.* For each control period for which a CAIR NO<sub>x</sub>

opt-in unit is to be allocated CAIR NO<sub>x</sub> allowances, the permitting authority will allocate in accordance with the following procedures, if provided in a State implementation plan revision submitted in accordance with § 51.123(p)(3)(i), (ii), or (iii) of this chapter and approved by the Administrator:

(1) The heat input (in mmBtu) used for calculating the CAIR NO<sub>x</sub> allowance allocation will be the lesser of:

(i) The CAIR NO<sub>x</sub> opt-in unit's baseline heat input determined under § 97.184(c); or

(ii) The CAIR NO<sub>x</sub> opt-in unit's heat input, as determined in accordance with subpart HH of this part, for the immediately prior control period, except when the allocation is being calculated for the control period in which the CAIR NO<sub>x</sub> opt-in unit enters the CAIR NO<sub>x</sub> Annual Trading Program under § 97.184(g).

(2) The NO<sub>x</sub> emission rate (in lb/mmBtu) used for calculating CAIR NO<sub>x</sub> allowance allocations will be the lesser of:

(i) The CAIR NO<sub>x</sub> opt-in unit's baseline NO<sub>x</sub> emissions rate (in lb/mmBtu) determined under § 97.184(d) and multiplied by 70 percent; or

(ii) The most stringent State or Federal NO<sub>x</sub> emissions limitation applicable to the CAIR NO<sub>x</sub> opt-in unit at any time during the control period for which CAIR NO<sub>x</sub> allowances are to be allocated.

(3) The permitting authority will allocate CAIR NO<sub>x</sub> allowances to the CAIR NO<sub>x</sub> opt-in unit in an amount equaling the heat input under paragraph (b)(1) of this section, multiplied by the NO<sub>x</sub> emission rate under paragraph (b)(2) of this section, divided by 2,000 lb/ton, and rounded to the nearest whole allowance as appropriate.

(c) Notwithstanding paragraph (b) of this section and if the CAIR designated representative requests, and the permitting authority issues a CAIR opt-in permit (based on a demonstration of the intent to repower stated under § 97.183(a)(5)) providing for, allocation to a CAIR NO<sub>x</sub> opt-in unit of CAIR NO<sub>x</sub> allowances under this paragraph (subject to the conditions in §§ 97.184(h) and 97.186(g)), the permitting authority will allocate to the CAIR NO<sub>x</sub> opt-in unit as follows, if provided in a State imple-

mentation plan revision submitted in accordance with ( § 51.123(p)(3)(i), (ii), or (iii) of this chapter and approved by the Administrator:

(1) For each control period in 2009 through 2014 for which the CAIR NO<sub>x</sub> opt-in unit is to be allocated CAIR NO<sub>x</sub> allowances,

(i) The heat input (in mmBtu) used for calculating CAIR NO<sub>x</sub> allowance allocations will be determined as described in paragraph (b)(1) of this section.

(ii) The NO<sub>x</sub> emission rate (in lb/mmBtu) used for calculating CAIR NO<sub>x</sub> allowance allocations will be the lesser of:

(A) The CAIR NO<sub>x</sub> opt-in unit's baseline NO<sub>x</sub> emissions rate (in lb/mmBtu) determined under § 97.184(d); or

(B) The most stringent State or Federal NO<sub>x</sub> emissions limitation applicable to the CAIR NO<sub>x</sub> opt-in unit at any time during the control period in which the CAIR NO<sub>x</sub> opt-in unit enters the CAIR NO<sub>x</sub> Annual Trading Program under § 97.184(g).

(iii) The permitting authority will allocate CAIR NO<sub>x</sub> allowances to the CAIR NO<sub>x</sub> opt-in unit in an amount equaling the heat input under paragraph (c)(1)(i) of this section, multiplied by the NO<sub>x</sub> emission rate under paragraph (c)(1)(ii) of this section, divided by 2,000 lb/ton, and rounded to the nearest whole allowance as appropriate.

(2) For each control period in 2015 and thereafter for which the CAIR NO<sub>x</sub> opt-in unit is to be allocated CAIR NO<sub>x</sub> allowances,

(i) The heat input (in mmBtu) used for calculating the CAIR NO<sub>x</sub> allowance allocations will be determined as described in paragraph (b)(1) of this section.

(ii) The NO<sub>x</sub> emission rate (in lb/mmBtu) used for calculating the CAIR NO<sub>x</sub> allowance allocation will be the lesser of:

(A) 0.15 lb/mmBtu;

(B) The CAIR NO<sub>x</sub> opt-in unit's baseline NO<sub>x</sub> emissions rate (in lb/mmBtu) determined under § 97.184(d); or

(C) The most stringent State or Federal NO<sub>x</sub> emissions limitation applicable to the CAIR NO<sub>x</sub> opt-in unit at any time during the control period for

which CAIR NO<sub>x</sub> allowances are to be allocated.

(iii) The permitting authority will allocate CAIR NO<sub>x</sub> allowances to the CAIR NO<sub>x</sub> opt-in unit in an amount equaling the heat input under paragraph (c)(2)(i) of this section, multiplied by the NO<sub>x</sub> emission rate under paragraph (c)(2)(ii) of this section, divided by 2,000 lb/ton, and rounded to the nearest whole allowance as appropriate.

(d) *Recordation.* If provided in a State implementation plan revision submitted in accordance with §51.123(p)(3)(i), (ii), or (iii) of this chapter and approved by the Administrator:

(1) The Administrator will record, in the compliance account of the source that includes the CAIR NO<sub>x</sub> opt-in unit, the CAIR NO<sub>x</sub> allowances allocated by the permitting authority to the CAIR NO<sub>x</sub> opt-in unit under paragraph (a)(1) of this section.

(2) By December 1 of the control period in which a CAIR NO<sub>x</sub> opt-in unit enters the CAIR NO<sub>x</sub> Annual Trading Program under §97.184(g) and December 1 of each year thereafter, the Administrator will record, in the compliance account of the source that includes the CAIR NO<sub>x</sub> opt-in unit, the CAIR NO<sub>x</sub> allowances allocated by the permitting authority to the CAIR NO<sub>x</sub> opt-in unit under paragraph (a)(2) of this section.

#### APPENDIX A TO SUBPART II OF PART 97— STATES WITH APPROVED STATE IM- PLEMENTATION PLAN REVISIONS CON- CERNING CAIR NO<sub>x</sub> OPT-IN UNITS

1. The following States have State Implementation Plan revisions under §51.123(p)(3) of this chapter approved by the Administrator and establishing procedures providing for CAIR NO<sub>x</sub> opt-in units under subpart II of this part and allocation of CAIR NO<sub>x</sub> allowances to such units under §97.188(b):

Indiana  
Michigan  
North Carolina  
Ohio  
South Carolina  
Tennessee

2. The following States have State Implementation Plan revisions under §51.123(p)(3) of this chapter approved by the Administrator and establishing procedures providing for CAIR NO<sub>x</sub> opt-in units under subpart II of this part and allocation of CAIR NO<sub>x</sub> allowances to such units under §97.188(c):

Indiana

Michigan  
Ohio  
North Carolina  
South Carolina  
Tennessee

[65 FR 2727, Jan. 18, 2000, as amended at 72 FR 46394, Aug. 20, 2007; 72 FR 56920, Oct. 5, 2007; 72 FR 57215, Oct. 9, 2007; 72 FR 59487, Oct. 22, 2007; 72 FR 72262, Dec. 20, 2007; 73 FR 6040, Feb. 1, 2008]

### Subpart AAA—CAIR SO<sub>2</sub> Trading Program General Provisions

#### §97.201 Purpose.

This subpart and subparts BBB through III set forth the general provisions and the designated representative, permitting, allowance, monitoring, and opt-in provisions for the Federal Clean Air Interstate Rule (CAIR) SO<sub>2</sub> Trading Program, under section 110 of the Clean Air Act and §52.36 of this chapter, as a means of mitigating interstate transport of fine particulates and sulfur dioxide.

#### §97.202 Definitions.

The terms used in this subpart and subparts BBB through III shall have the meanings set forth in this section as follows:

*Account number* means the identification number given by the Administrator to each CAIR SO<sub>2</sub> Allowance Tracking System account.

*Acid Rain emissions limitation* means a limitation on emissions of sulfur dioxide or nitrogen oxides under the Acid Rain Program.

*Acid Rain Program* means a multi-state sulfur dioxide and nitrogen oxides air pollution control and emission reduction program established by the Administrator under title IV of the CAA and parts 72 through 78 of this chapter.

*Administrator* means the Administrator of the United States Environmental Protection Agency or the Administrator's duly authorized representative.

*Allocate* or *allocation* means, with regard to CAIR SO<sub>2</sub> allowances issued under the Acid Rain Program, the determination by the Administrator of the amount of such CAIR SO<sub>2</sub> allowances to be initially credited to a CAIR SO<sub>2</sub> unit or other entity and, with regard to CAIR SO<sub>2</sub> allowances issued